



COUNCIL OF STATE SPECIAL PROSECUTOR PILOT

SESSION LAW 2017-57, §18B.13

REPORT PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
APRIL 1, 2018



About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

INTRODUCTION

Section 18B.13 of Session Law 2017-57¹ requires the North Carolina Administrative Office of the Courts (“NCAOC”) to submit a report on special prosecutors appointed pursuant to a pilot project involving the Council of State. Specifically, the statute provides as follows:

COUNCIL OF STATE SPECIAL PROSECUTOR PILOT PROJECT

SECTION 18B.13.(a) Pilot Project. – The Administrative Office of the Courts, in consultation with the Conference of District Attorneys, may appoint up to two special prosecutors per Council of State member at the member's request to aid local district attorneys' offices in prosecuting cases arising under Article 15 of Chapter 14 of the North Carolina General Statutes, violations of Chapter 58 of the North Carolina General Statutes, and violations of Chapter 14 of the North Carolina General Statutes as they relate to insurance fraud. Attorneys appointed as special prosecutors under this program shall be agency attorneys currently employed in the department of the requesting Council of State member and shall have a physical office in the local district attorney's office throughout the duration of the special appointment. Special prosecutors shall report to the Director of the Administrative Office of the Courts or the director's designee on all cases related to the special appointment. Nothing in this section shall be construed to authorize the hiring of additional personnel or outside counsel.

SECTION 18B.13.(b) The Administrative Office of the Courts, in conjunction with the agencies that utilize the pilot program set out in subsection (a), shall report to the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by April 1, 2018. The report shall include the results of the pilot program and recommendations on whether the program should be extended.

SECTION 18B.13.(c) This section expires June 30, 2019, and all pending cases shall remain within the local district attorney's office for prosecution by attorneys employed by that office.

NCAOC submits this report pursuant to the legislative mandate.

APPOINTMENT PROCESS

A member of the Council of State who wants to designate a special prosecutor must send a letter on the member's letterhead to the NCAOC Director. The letter should identify the names of no more than two attorneys already employed by the Council of State member as special prosecutors and their qualifications for handling arson or insurance fraud cases.

Upon receiving the request, the NCAOC Director consults with the Executive Director of the Conference of District Attorneys (“Conference”) on the qualifications of the attorneys. If the Director and Executive Director agree that the attorneys are qualified, the NCAOC Director sends a letter to the Council of State member indicating that the attorneys have been appointed as special prosecutors and are eligible for assignment to a district attorney's office.

As of the date of this report, NCAOC, in consultation with the Conference, has appointed two special prosecutors pursuant to the special provision. Table 1 below lists the names of the special prosecutors, requesting agency and date of appointment.

¹ See Session Law 2017-197, §5.7.



Table 1. Special Prosecutors Appointed Pursuant to S.L. 2017-197, §18B.13 as of March 30, 2018

COUNCIL OF STATE MEMBER	REQUESTING AGENCY	NAME OF SPECIAL PROSECUTOR	DATE OF APPOINTMENT
Mike Causey	NC Department of Insurance	Jeffrey Melvin Cannon	12/08/2017
Mike Causey	NC Department of Insurance	Austin Hood Olive	12/08/2017

ASSIGNMENT OF CASES

The Conference receives requests from district attorneys for special prosecutors and consults with the NCAOC Director to determine assignments of special prosecutors to particular districts. Upon making an assignment, the Conference sends a letter or email to the special prosecutor and the district attorney notifying them of the assignment.

Special prosecutors report to the NCAOC Director or the Director's designee. The NCAOC Director has named the Conference as his designee in all cases handled by the special prosecutors. However, the district attorney in the district in which the case is filed is responsible for managing the work of the special prosecutor and reporting any issues that arise to the Conference.

As of March 30, 2018, the special prosecutors had been assigned approximately 60 cases. The eligible cases are those arising under Article 15 of Chapter 14 of the North Carolina General Statutes, violations of Chapter 58 of the North Carolina General Statutes, and violations of Chapter 14 of the North Carolina General Statutes as they relate to insurance fraud.

SUMMARY

District attorneys are working with the designated special prosecutors to prosecute the assigned cases. Because only two special prosecutors have been appointed and caseloads are small, the Conference is not able to evaluate the pilot in a comprehensive way in this report. However, district attorneys are committed to holding the perpetrators of insurance-related crimes accountable, and will continue to successfully prosecute these cases as efficiently as possible. The Conference expects to be able to provide additional information about the efficacy of the pilot as more cases move to disposition pursuant to the pilot.



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